

**UNITED STATES DISTRICT COURT**

**WESTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION**

BRADLEY S. SOLAREK, KAREN L.  
SOLAREK and FOREVER  
UNDEVELOPED, LLC,

CASE NO. 1:20-cv-00689-RJJ-PJG

Plaintiffs,

HON. ROBERT J. JUNKER

V

KELLISON WOODS CONDOMINIUM  
ASSOCIATION, a Nonprofit Corporation;  
MICHAEL DOERR, KARIN DOERR,  
BRADDOCK CUMMINS, MELISSA  
REMILLARD, ASHLEY LAVANWAY,  
ALLAN KINNEY AND WILLIAM J. KLERK

**PLAINTIFFS MOTION FOR REMAND**

Defendants.

v

OSHTEMO CHARTER TOWNSHIP  
Intervening Party

Stephen L. Langeland (P32583)  
STEPHEN L. LANGELAND PC  
Attorney for Plaintiffs  
6146 W. Main Street, Suite C  
Kalamazoo, MI 49009  
(269) 382-3703

Christopher J. Zdarsky (P81809)  
HONIGMAN LLP  
Attorneys for Defendants  
300 Ottawa Avenue NW, Suite 400  
Grand Rapids, MI 49503  
(616) 649-1974

Tyren R. Cudney (P46638)  
Stuart A. Chipman-Bergsma (P79231)  
LENNON MILLER O'CONNOR  
& BARTOSIEWICZ PLC  
Attorneys for Defendants  
151 S. Rose Street, Suite 900  
Kalamazoo, MI 49007  
(269) 381-8844

William K. Fahey (P27745)  
John S. Brennan (P55431)  
FAHEY SCHULTZ BURZYCH RHODES PLC  
Attorneys for Oshtemo Charter Township  
4151 Okemos Road  
Okemos, MI 48864  
(517) 381-0100

Ronald W. Ryan (P46590)  
LEWIS, REED & ALLEN, P.C.  
Attorneys for Defendant William J. Klerk  
136 E. Michigan Ave. Ste. 800  
Kalamazoo, MI 49007  
(269) 388-7600

**NOW COME** Plaintiffs, Bradley S. Solarek, Karen L. Solarek and Forever Undeveloped, LLC, by and through their Counsel, Stephen L. Langeland, PC and for their Motion to Remand, hereby state as follows:

1. The Defendant Oshtemo was granted leave by the State Court to Intervene in the Case and was served with the Plaintiff's Third Amended Complaint on June 26, 2020. Exhibit 2 – Proof of Service. The Third Amended Complaint pled Federal Claims against Defendant Oshtemo.
2. Defendant Oshtemo's Notice of Removal acknowledges that it was served the Third Amend Complaint on June 26, 2020. ECF No.1 PageID. 2 ¶3.
3. On July 27, 2020, Defendant, Charter Township of Oshtemo,(Oshtemo) filed a Notice of Removal in the above matter seeking to remove the Case from the Kalamazoo County Circuit Court, State of Michigan to the United States District Court for the Western District of Michigan. Exhibit 1 – Notice of Removal
4. The Notice of Removal of a Civil Action or proceeding shall be filed within **30 days after the receipt by the defendant, through service or otherwise,** of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has the been filed in court and is not required to be served on the defendant, whichever period is shorter.” 28 U.S.C. § 1446(b)(1).
5. Defendant Oshtemo's Notice of Removal was filed over 30 days after Defendant Oshtemo received Plaintiffs Third Amended Complaint as required by 28 U.S.C. § 1446(b)(1).

6. “A defendant’s failure to comply with the thirty-day limitation set forth in Section 1446(b) is an absolute bar to removal regardless of whether the removal would have been proper if timely filed.” *Groesbeck Invs., Inc. v. Smith*, 224 F. Supp.2d 1144, 1148 (E.D.Mich. 2002)

7. Pursuant to 28 U.S.C. §1447(c) an Order remanding the Case may require payment of just cost and any actual expenses including attorney fees occurred as a result of the removal.

WHEREFORE for all the foregoing reasons, this Court this Motion; Remand this Case in its entirety to the Circuit Court of Kalamazoo County, Michigan; award Plaintiffs their costs and attorney fees; and grant any all further relief that this Court deems to be reasonable and appropriate under the circumstances.

Respectfully submitted,

STEPHEN L. LANGELAND,

DATED: August 6, 2020

By: /s/Stephen L. Langeland

Stephen L. Langeland (P32583)  
6146 W. Main St., Suite C  
Kalamazoo, MI 49009  
(269)382-3703  
slangeland@slangelandlaw.com

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August 6, 2020, all counsel of record who were deemed to have consented to electronic service are being served a true and correct copy of the foregoing document using the Court's CM/ECF system, in compliance with L.CivR 5.2.

/s/ Stephen L. Langeland

Stephen L. Langeland